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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:	§	
	§	
BUFFETS, LLC, ET AL.,	§	**CASE NO. 16-50557-RBK-11**
	§	
	§	**(JOINTLY ADMINISTERED UNDER**
	§	**CASE NO. 16-50557-RBK-11)**
	§	
DEBTORS.	§	

OBJECTION OF THE UNITED STATES TRUSTEE TO REORGANIZED DEBTORS' MOTION TO DETERMINE EXTENT OF LIABILITY FOR POST-CONFIRMATION QUARTERLY FEES PAYABLE TO UNITED STATES TRUSTEE PURSUANT TO 28 U.S.C. § 1930(a)(6)

TO THE HONORABLE RONALD B. KING
CHIEF UNITED STATES BANKRUPTCY JUDGE:

COMES NOW Henry G. Hobbs, Jr., the Acting United States Trustee for Region 7 ("UST"), by and through the undersigned, and files this objection to the Reorganized Debtors' Motion To Determine Extent of Liability For Post-confirmation Quarterly Fees Payable to United States Trustee Pursuant to 28 U.S.C. § 1930(a)(6)(the "Motion"). The UST respectfully shows the Court the following:

PRELIMINARY STATEMENT

In the Motion, the debtors ask the Court to determine the amount of post-confirmation U.S. Trustee quarterly fees ("Quarterly Fees") they owe pursuant to 28 U.S.C. § 1930(a)(6).[1] In particular, the debtors argue that the Court should define post-confirmation disbursements as only those distributions made pursuant to their Plan of reorganization. Notwithstanding the Debtors' perceived notions of an unfair outcome,[2] their definition of disbursements finds no support in the plain language of 28 U.S.C. § 1930(a)(6) or in the vast majority of cases addressing the issue. Indeed, at least three United States Circuit Courts of Appeal have considered the Debtors' arguments and rejected them. This Court should do the same and deny the Motion.

BACKGROUND FACTS

1. On March 7, 2016, Buffets, LLC and 6 related debtors[3] (the "debtors") filed

1 Congress imposed the requirement to pay U.S. Trustee quarterly fees in 28 U.S.C. § 1930, which is titled "Bankruptcy Fees," and which also provides for payment of filing fees. 28 U.S.C. § 1930(a)(6) is sometimes referred to in the Objection as the "statute."

2 It appears to the UST that the debtors' Motion was prompted by the enactment of the Bankruptcy Judgeship Act of 2017 (the "Bankruptcy Judgeship Act"), which was signed into law on October 26, 2017. P.L. 15-17, 131 Stat. 1224, Div. B § 1004. Pursuant to the Bankruptcy Judgeship Act, Congress revised the Quarterly Fee calculation, effective January 1, 2018, for cases with quarterly disbursements of $1 million or more and increased the maximum fee to $250,000. Under the current fee structure, if a debtor has disbursements of $25 million or more during a quarter, the debtor will owe Quarterly Fees of $250,000. In these cases, the total quarterly disbursements for the consolidated debtors per quarter are well in excess of $25 million. Based on the debtors' reported disbursements, the debtors currently owe Quarterly Fees of $250,000 each for the 1st and 2nd quarters of 2018, for a total amount of approximately $500,000. The debtors argue the changed sliding scale calculation pursuant to the Bankruptcy Judgeship Act resulting in an increase in Quarterly Fees for these debtors is unfair.

3 The other debtors are Hometown Buffet, Inc. OCB Restaurant Company, LLC, OCB Purchasing Co., Ryan's Restaurant Group, LLC, Fire Mountain Restaurants, LLC, and Tahoe Joe's, Inc.

voluntary petitions under Chapter 11 of the Bankruptcy Code. The cases are jointly administered under Case No. 16-50557-RBK-11.

2. On April 27, 2017, the debtors confirmed their Second Amended Joint Plan of Reorganization (the "Plan")(Docket No. 2576). Pursuant to the Plan, the debtors were substantively consolidated.

3. The Plan and Order Confirming the Plan contain provisions for payment of Quarterly Fees: "A. Payment of Statutory Fees All fees payable on or before the Effective Date pursuant to section 1930 of title 28 of the United States Code shall be paid by the Debtors on or before the Effective Date. Each Reorganized Debtor shall pay such fees payable after the Effective Date until such time as a final decree is entered closing the applicable Chapter 11 Case or the Court orders otherwise." (Docket No. 2576 page 101 of 119, Plan Art. X Miscellaneous Provisions; Docket No. 2576 Order Confirming the Plan at Paras 17 page 15 of 119 and Para. 61 page 34 of 119).

4. The debtors filed consolidated post-confirmation reports summarized as follows:

Quarter	Docket No.	Reported Total Disbursements
2nd 2017	2753	$54,679,019.00
3rd 2017	2956	$68,995,773.00
4th 2017	3327	$71,952,262.06
1st 2018	3708	$65,274,569.47
2nd 2018	3809	$67,303,248.20

5. The debtors have paid the Quarterly Fees through the 4th quarter of 2017. The debtors have not paid the Quarterly Fees due for the 1st and 2nd quarters of 2018.

DEBTORS' FACTUAL ALLEGATIONS IN THE MOTION

6. The UST admits the statements of jurisdiction contained in paragraph 1 of the Motion.

7. The UST admits to the allegations contained in paragraphs 2, 3, and 4 of the Motion.

8. The UST admits the first sentence of paragraph 5 of the Motion. The UST admits the Bankruptcy Judgeship Act became law on October 26, 2017 as recited in the second sentence of paragraph 5 of the Motion. The UST denies the Bankruptcy Judgeship Act became effective on October 26, 2017, as an incorrect recital of the statute. 28 U.S.C. § 1930(a)(6)(B) states: "[d]uring each of the fiscal years 2018 through 2022, if the balance in the United States Trustee System Fund as of September 30 of the most recent full fiscal year is less than $200,000,000 the quarterly fee payable for a quarter in which disbursements equal or exceed $1,000,000 shall be the lesser of 1 percent of such disbursements or $250,000." [4] 28 U.S.C. §1930(a)(6)(B). The UST admits the Bankruptcy Judgeship Act applies to disbursements made in these cases in the calendar quarter beginning January 1, 2018. The UST can neither admit nor deny those portions of paragraph 5 of the Motion contained within the second sentence which appear to be argument.

4 The debtors' Motion contains the statute at Para. 10.] of their argument.

9. The UST admits the allegations contained in paragraphs 6 and 7 of the Motion.

ARGUMENT & AUTHORITIES

I. "Disbursements," under 28 U.S.C. § 1930(a)(6), Means All Payments Made By The Debtors Or On Their Behalf.

10. In the Motion, the debtors ask the Court to reduce the amount of Quarterly Fees they owe by limiting "disbursements" to payments on administrative expense claims, the claims of creditors of the Reorganized Debtors' bankruptcy estates, and the interests of equity security holders pursuant to the plan. Under their theory, the debtors assert they would only owe Quarterly Fees of $4,875 each quarter. This theory, however, is not a proper way to construe a statute and is not supported by the plain meaning of the word "disbursements" or the majority of the cases interpreting 28 U.S.C. §1930(a)(6) and the meaning of disbursements.

A. The definition of "disbursement."

11. The term "disbursement" is not defined in the Bankruptcy Code. Because neither the statute nor its legislative history defines the word disbursement, courts determine its meaning from the plain language of the statute using accepted canons of statutory construction. The most applicable canon of statutory construction in this circumstance is the axiom that where a word is not otherwise defined in the relevant stature, the court should construe it in accord with its ordinary and natural meaning. *Smith v. United States*, 508 U.S. 223, 228 (1993); *Perrin v. United States*, 444 U.S. 37,

42 (1979). Disbursement is defined as "funds paid out." *In re R & K Fabricating, Inc.*, 2013 Bankr. LEXIS 4115 at p. 7 (Bankr. S. D. Tex. September 30, 2013)(citing Webster's Ninth New Collegiate Dictionary 361 (1990)).

B. The majority of cases construe disbursements as all payments made by or on behalf of the debtors.

12. 28 U.S.C. §1930(a)(6) is unambiguous. A majority of courts have construed the term "disbursement" very broadly to mean all disbursements made during the pendency of the case. *See Robiner v. Danny's Mkts., Inc. (In re Danny's Mkts., Inc.),* 266 F.3d 523, 526 (6th Cir. 2001)("Accordingly, all of these payments, including the debtor's day-to-day, post confirmation operating expenses, must be accounted for in the calculation of the trustee's quarterly fee. They are all "disbursements" under the statute, and the statute is quite unambiguous that all disbursements, whenever made, drive the fee amount."); *Tighe v. Celebrity Home Entm't, Inc. (In re Celebrity Home Entm't, Inc.),* 210 F.3d 995, 998 (9th Cir. 2000)(addressing reorganized debtor's liability for quarterly fees and providing broad definition of disbursement); *Cash Cow Servs. of Fla. LLC v. United States Trustee (In re Cash Cow Servs. of Fla. LLC),* 296 F.3d 1261, 1265 (11th Cir. 2002)(broad definition of disbursement: debtor's payment to consumers of loan proceeds as part of its business were "disbursements"); *Walton v. Jamko, Inc. (In re Jamko, Inc.),* 240 F.3d 1312, 1316 (11th Cir. 2001)("There is ample support, however, in the legislative history and case law, including the Ninth Circuit's decision in *Celebrity Home,* to conclude that Congress intended the UST fee to apply to all disbursements

made during the entire process, including ordinary operating expenses, before or after confirmation, as a type of user tax on those who benefit the most from the program."); *In re N. Hess' Sons, Inc.,* 218 B.R. 354, 361 (Bankr. D. Md. 1998)(broad definition of disbursement: ordinary course of business); *In re R & K Fabricating, Inc*., 2013 WL 5493161, 2013 Bankr. LEXIS 4115 (Bankr. S.D. Tex. September 30, 2013)(holding that "disbursements" means both those made under a plan of reorganization and all other amounts paid out by a reorganized debtor); *In re Pars Leasing, Inc*., 217 B.R. 218, 221 (Bankr. W.D. Tex. 1997)(broad definition of disbursement including not just the actual cash disbursements made by the debtor-in-possession, but also those cash disbursements made by third parties on behalf of the debtor). This Court should follow the majority of cases and adopt a broad definition of disbursements to include all payments by or on behalf of the debtors.

C. The *Brown* case is flawed and factually distinguishable from the debtors' cases.

13. The debtors rely solely on Judge Leticia Clark's opinion in *In re Brown*, 2008 WL 899333 (Bankr. S.D. Tex. March 31, 2008) in support of their limited definition of disbursements. The *Brown* opinion is not binding or controlling precedent for this Court.

14. Neither is *Brown* persuasive. The *Brown* decision's narrow construction of disbursements is an outlier that conflicts with the majority of cases construing the statute and the common sense meaning of disbursements. The reasoning of *Brown* is based on a flawed premise and contradicts the plain language of 28 U.S.C. § 1930(a)(6).

15. In *Brown*, the court acknowledges, but then proceeds to ignore, the majority view of cases that disbursements includes all post-confirmation payments made by the debtors. To reach an outcome-oriented result, the *Brown* court claims that the majority view was mistaken because it does not take into account the impact of sections 507(a)(2) and 1129(a)(9) of the Bankruptcy Code. *Id.* at 3. In particular, the *Brown* court claimed that these statutory provisions required the bankruptcy court, at the time of confirmation of each Chapter 11 case to (1) determine the timing and amount of future post-confirmation disbursements and (2) require the debtor pay quarterly fees based on such determination in cash on the effective date of the plan. *Id.* at 4. This premise formed the basis for the conclusion that post-confirmation disbursements are only those payments made under the plan.

16. Nothing in section 1129(a)(9) supports *Brown's* conclusion. The confirmation statute mandates an identifiable payment of money on or before a date certain (i.e., the effective date of the plan) unless a party agrees otherwise. *See* 11 U.S.C. § 1129(a)(9). By contrast, the provision says nothing about a determination of post-effective date fees—and for good reason. Such an adjudication would be premature because it would depend upon facts not yet in existence.

17. Other provisions of section 1129 further evidence that the Court does not adjudicate quarterly fee liability into perpetuity at the time of confirmation. Just as the *Brown* court stated the majority cases failed to take into account sections 507(a)(2) and 1129(a)(9), *Brown* ignores 11 U.S.C. § 1129(a)(12). Under section 1129(a)(12), the Quarterly Fees which must be paid on the Effective Date are the fees "payable" at the

time of confirmation up to the effective date. 11 U.S.C. § 1129(a)(12). Quarterly Fees are payable on the last day of the month after the calendar quarter. Fed. R. Bankr. P. 2015(a)(5). Conversely, any fees that are not payable at the time of confirmation fall outside of section 1129's scope.

18. One need only read the provisions of the Plan in these cases to understand how 11 U.S.C. § 1129(a)(12) and 28 U.S.C. § 1930(a)(6) apply. (Docket No. 2576). Section 1129(a)(12) requires that bankruptcy fees under 28 U.S.C. § 1930 due and owing as of the confirmation of the plan must be paid on or before the effective date. The Quarterly Fees due and payable on April 27, 2017 were the fees required to be paid on the Effective Date. So, the Court found the Plan complied with Section 1129(a)(12) because the Quarterly Fees due at confirmation "either have been paid or will be paid on the Effective Date." (Docket No. 2576 page 15 of 119, Para. 17).

19. After the effective date of a confirmed plan, Quarterly Fees are post-confirmation statutory fees which accrue each quarter until the case is converted, dismissed, or closed. 28 U.S.C. § 1930(a)(6); *see also In re Jamko, Inc.*, 240 F.3d at 1315. Section 1129 does not require the Bankruptcy Court to determine all future post-confirmation Quarterly Fees at the time of confirmation or find the debtor has the actual ability to pay all post confirmation statutory fees. Just as other statutory fees arising post confirmation, such as taxes, are not fixed or determined at confirmation, Quarterly Fees are neither all payable immediately nor fixed by the Court at confirmation. The Court typically does not determine whether the debtor has the ability to pay all post confirmation taxes in order to make a finding of feasibility at confirmation. And here, the Court found

that the debtors have established that confirmation of the Plan will "not likely be followed by the liquidation, or the need for further financial reorganization of the Reorganized Debtors." (Docket No. 2576 page 14 of 119 at Para. 16.)

20. *Brown* likewise ignores the plain language of 28 U.S.C. § 1930(a)(6). Section 1930(a)(6) does not create two calculations for disbursements, one used pre-confirmation and one used post confirmation. Such arguments were made in 1996 when 28 U.S.C. §1930(a)(6) was amended to apply to cases following confirmation until the case was converted, dismissed or closed. Courts strongly disagreed. *See In re Pettibone Corp.*, 251 B.R. 335 (N.D. Ill. 2000)(collecting cases). Congress could have included such language limiting the disbursements on which Quarterly Fees were owed to those under a plan when it amended section 1930(a)(6) in 1996, but chose not to do so. The court in *Brown* essentially added new terms to section 1930(a)(6) that do not appear in the statute.

21. Additionally, the facts in *Brown* are distinguishable from the facts in the debtors' cases. In *Brown*, the debtor was an individual Chapter 11 debtor in a case filed prior to the 2005 amendments under the BAPCPA.[5] The debtors here are corporations and limited liability companies. The *Brown* court held that the debtor's status as an individual Chapter 11 debtor distinguished the *Brown* facts from the conflicting Circuit Court authority involving businesses. *Id.* at 4. *Brown* also held that requiring an

[5] The BAPCPA amendments to the Bankruptcy Code included 11 U.S.C. § 1115 providing an individual Chapter 11 debtor's post-petition earnings are property of the estate. Significantly an individual chapter 11 debtor must pay the full unsecured creditor claims or not less than the projected disposable income as calculated under chapter 13 if creditors object. 11 U.SC. § 1129(a)(15)(A) or (B). And Courts have determined the absolute priority rule applies to individual chapter 11 debtors. *In re Lively,* 717 F. 3d 406 (5th Cir. 2013).

individual Chapter 11 debtor to use post-petition income to pay post-confirmation Quarterly Fees on all expenditures appears to impose involuntary servitude. *Id.* at. 5. The *Brown* opinion is a minority view concerning the interpretation of disbursements under 28 U.S.C. § 1930(a)(6), and, in any event, applied only to cases of individual Chapter 11 debtors filed prior to the 2005 amendments under the BAPCPA. The Court should follow the majority of cases and adopt the definition of disbursements that includes all payments made by or on behalf of the debtors. Just as the majority of courts concluded nothing in the previous amendments to 28 U.S.C. § 1930(a)(6) limited the term "disbursements", this Court should find that nothing in the Bankruptcy Judgeship Act shows Congress intended to limit the basis for calculating Quarterly Fees to disbursements of plan payments. *E.g. In re Maruko, Inc.,* 219 B.R. 567, 572 (S.D. Cal. 1998).

II. The Debtors Are Not Entitled To Equitable Relief From The Increase In Quarterly Fees Under The Bankruptcy Judgeship Act.

22. The debtors suggest confirmation of the Plan was based upon "reliance on status quo at that time." (Motion Para. 10 pp 4-5). The debtors mistakenly suggest because other parts of the Bankruptcy Code are indexed to the Consumer Price Index that the increase in a statutory fee which applies to these debtors, namely Quarterly Fees is "beyond the realm of reasonable. . . "(Motion at Para. 10 p. 5 of 8). The UST expects that the debtors will also argue that the increase in Quarterly Fees under the Bankruptcy Judgeship Act is not fair and that the fees should be frozen at the same level that existed

upon Plan confirmation. This argument is not new. In 1996, Congress amended 28 U.S.C. § 1930(a)(6) to require payment of post-confirmation Quarterly Fees based on post-confirmation disbursements until the case is converted or dismissed. The 1996 amendments to section 1930(a)(6) affected all Chapter 11 debtors, not just debtors with disbursements of $1 million or more as set forth under the Bankruptcy Judgeship Act. In response to the 1996 amendments, many debtors with confirmed plans requested equitable relief from the statute.

23. Such arguments have no more merit today than they did 22 years ago. The Court cannot excuse the payment of statutory Quarterly Fees on equitable grounds. Equitable considerations can never be used to circumvent the clear intent of Congress as embodied in the plain language of a statute.[6] *See Law v. Siegel*, 571 U.S. 415, 421 (2014); *United States Trustee v. Columbia Gas Sys., Inc. (In re Columbia Gas Sys., Inc.)*, 33 F.3d 294, 300 (3d Cir. 1994); *United States Trustee v. Price Waterhouse*, 19 F.3d 138, 141 (3d Cir. 1994); *see also In re Kroy (Europe) Ltd.*, 244 B.R. 816, 819 (D. Ariz. 2000) ("[T]here is no language in section 1930(a)(6) indicating that Congress intended to create an "inequitable" exception to payment of [quarterly] fees.").

24. Courts have acknowledged that, whether or not they agree with 28 U.S.C. § 1930(a)(6) as drafted, they have no discretion to alter the statutory fees owed in a particular case. *See, e.g.*, *Jorgenson v. Schwartz (In re Wilko Mach., Inc.)*, No. 97-55937,

6 Nor is the new legislation particularly inequitable. The UST acknowledges that the maximum Quarterly Fee under the Bankruptcy Judgeship Act increased from $30,000 to $250,000. For these debtors this amount is less than 0.4% of their quarterly disbursements which average approximately $65,000,000 per quarter. By contrast, a small chapter 11 debtor making $15,000 in quarterly disbursements pays a quarterly fee of $650 under the longstanding fee schedule, which represents 4.3% of its total expenditures.

1999 WL 77963 at *1 (9th Cir. 1999) ("The statute mandates quarterly payments in a Chapter 11 case to the U.S. Trustee, and the bankruptcy court does not have discretion to disallow or modify the debtor's obligation to pay these fees."); *Office of the U.S. Trustee v. Hays Builders, Inc. (In re Hays Builders, Inc.)*, 144 B.R. 778, 779-80 (W.D. Tenn. 1992) (stating that statutory fees are "not subject to the court's discretion in determining what is 'reasonable'"); *In re Central Copters, Inc.*, 226 B.R. 447, 451 (Bankr. D. Mont. 1998) ("[T]he U.S. Trustee's fee under § 1930(a)(6) . . . is fixed and not subject to the court's discretion."); *In re Meyer*, 187 B.R. 650, 653 (Bankr. W.D. Mo. 1995) ("[T]his Court has no discretion to modify or disallow the UST's quarterly fees [.]").

25. The plain meaning of 28 U.S.C. § 1930(a)(6) must be applied in every situation, even when another interpretation might seem more equitable. *See, e.g., In re Danny's Mkts., Inc.*, 266 F.3d at 526 ("Congress nevertheless could have – and … perhaps even should have declined to maximize the potential revenue [§1930(a)(6)] might generate, but there is unfortunately no indication of any such benevolence or restraint on its part."); *In re Jamko, Inc.*, 240 F.3d 1312, 1316 n.6 (adopting broad interpretation of § 1930(a)(6) even though it "could jeopardize the success of the very entities that the Chapter 11 process was intended to benefit, because creditors receive less when the UST receives more," because, "[i]f change is necessary, it is a consideration for Congress, not the courts.").

26. The purpose of 28 U.S.C. § 1930(a)(6) and amendments thereto is to ensure that there is sufficient money in the United States Trustee System Fund to fund the United States Trustee Program's operations. *See, e.g.*, *In re Quality Truck & Diesel*

Injection Serv., Inc., 251 B.R. 682, 688 (S.D.W. Va. 2000)("In enacting [§ 1930(a)(6)], Congress struck what it considered to be a proper balance so as to provide necessary funds for the operations of the United States Trustee Program."); *In re Maruko, Inc*., 219 B.R. 567, 572 (S.D. Cal. 1998) ("[T]he history of § 1930(a)(6) indicates that it was intended to help the U.S. Trustee fund its own operations through the use of quarterly fees. When Congress amended this section, it intended to expand the revenue gaining capability of the U.S. Trustee."). The Bankruptcy Judgeship Act also funded several bankruptcy judgeships and extended some temporary judgeships. As a revenue statute, 28 U.S.C. § 1930(a)(6) must be interpreted so as to maximize the amount collected. *See, e.g*., *United States Trustee v. Ste-Bri Enters., Inc*., 579 B.R. 448, at 455 n.5 (N.D. Ohio 2017) ("As a revenue generating measure, [§ 1930(a)(6)] should be interpreted in a way that maximizes revenues."); *In re Hess' Sons, Inc*., 218 B.R. 354, 360 (Bankr. D. Md. 1998) (holding that, as a revenue-generating mechanism, § 1930(a)(6) should be construed so as to maximize revenues).

27. The Court must presume that Congress took all relevant policy considerations into account when it amended section 1930(a)(6). If Congress intended that the amendments under the Bankruptcy Judgeship Act would narrow the definition of the term disbursements, it would have included such language in the statute. A presumption exists in the law that Congress is aware of prior judicial and administrative interpretations of statutory terms. *Lorilland v. Pons,* 434 U.S. 575, 580 (1978); *See also Norwest Bank Worthington v. Ahlers,* 485 U.S. 197, 211 (1988). Consequently, Congress is presumed to be aware of the broad construction afforded the term "disbursements"

prior to amending 28 U.S.C. 1930(a)(6) and enacting the Bankruptcy Judgeship Act. Thus, the Court does not have authority or discretion to waive or alter the statutory Quarterly Fees established by Congress. *See In re Genesis Health Ventures, Inc.*, 402 F.3d 416, 422 (3d Cir. 2005) ("While the result increases several fold the quarterly fees the Debtors owe, any remedy is for Congress to fashion and not our Court.").

III. The Court should not apportion the payment of Quarterly Fees.

28. In the last sentence of paragraph 17 of the Motion, the debtors, citing *In re R & K Fabricating, Inc.*,[7] suggest that the Quarterly Fees should be apportioned to the entity or entities for whose benefit the cases are held open. The debtors do not list other entities or request any specific apportionment. The UST expects that the debtors may ask the Court to order an apportionment of the Quarterly Fees. Presumably this is yet another effort by the debtors to limit the Quarterly Fees to something other than a percentage of all disbursements by for example asking the Court to rule the Unsecured Creditors' Trust is responsible to pay Quarterly Fees since its activities are causing the cases to remain open. First, the Court should deny such a request as yet another attempt to achieve what the debtors consider a more equitable result rather than proper application of a statutory fee. Second, the Court should not relieve or adjust the debtors' obligation to pay Quarterly Fees because the Plan is clear: "each of the Reorganized

7 Judge Isgur, in *R & K Fabricating*, does not impose apportionment of the Quarterly Fees on other entities. Rather, the disbursing agent consented to pay the quarterly fees if he prevailed in a pending adversary. *Id.* at 2013 Bankr. LEXIS 4115, p. 10.

Debtors will be responsible for paying post-effective date quarterly fees under 28 U.S.C. §1930(a)(6).” (Docket No. 2576 page 15 of 119 paragraph 17). Third, the relief the debtors now appear to seek is contrary to the statute and an impermissible post confirmation modification of a substantially consummated plan. 11 U.S.C. § 1127(b). Plan. Moreover, the Court should view this request for relief in the context of the debtors’ companion motion for a final decree. (Docket No. 3798). The UST opposes any relief that releases the debtors from the obligation to pay all due and owing Quarterly Fees.

WHEREFORE, upon the premises considered the UST asks that the Court deny the Motion and for such other and further relief to which he may be entitled.

Respectfully submitted,

HENRY G. HOBBS, JR.
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By: /s/ James W. Rose, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served upon the parties on the attached Service List by United States Mail, first class, postage prepaid and/or by electronic means for all Pacer system participants on the 2nd day of August, 2018.

/s/ James W. Rose, Jr.
James W. Rose, Jr.

07/11/2018

LIMITED SERVICE LIST
In re Buffets, LLC, et al.
Case No. 16-50557-rbk
as of July 11, 2018

CONSOLIDATED LIST OF 30 LARGEST UNSECURED CREDITORS

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RT 191 AND CHIPPERFIELD DR
STROUDSBURG PA 18360

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EXHIBIT A

07/11/2018

LIMITED SERVICE LIST

In re Buffets, LLC, et al.

Case No. 16-50557-rbk

as of July 11, 2018

CONSOLIDATED LIST OF 30 LARGEST UNSECURED CREDITORS

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EXHIBIT A

07/11/2018

LIMITED SERVICE LIST

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as of July 11, 2018

CONSOLIDATED LIST OF 30 LARGEST UNSECURED CREDITORS

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CONSOLIDATED LIST OF 30 LARGEST UNSECURED CREDITORS

ARC PROPERTIES PARTNERSHIP LP
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